



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	SB0359	<b>Title:</b>	Generally revise sentencing laws regarding penalties for certain crimes
<b>Primary Sponsor:</b>	Kaufmann, Christine	<b>Status:</b>	As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	(\$66,950)	(\$535,603)	(\$1,613,377)	(\$3,779,600)
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$66,950</u>	<u>\$535,603</u>	<u>\$1,613,377</u>	<u>\$3,779,600</u>

**Description of fiscal impact:** This bill decreases the sentences imposed for certain misdemeanor and felony offenses. Currently, a person convicted of theft could be sentenced to a maximum of 10 years in prison. This bill would amend the maximum penalty to a commitment of not more than two or three years, depending on the crime.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Corrections**

1. There has been a yearly average of 183 felony convictions for bad checks and theft over the last five years, under 45-5-301 and 45-5-316, MCA. These sentences are split into three groups:
  - a. A total of 128 offenders have an average conviction time of 54 months on probation and parole supervision. This group would serve a maximum of 24 months on probation and parole supervision. The department would have fiscal savings for these 128 offenders because this group would serve 30 fewer months on probation and parole. The cost savings would occur after the initial 24-month sentence is completed. The savings would equate to \$0 savings in FY 2016 and FY 2017, \$134,621 savings in FY 2018, and \$392,649 savings in FY 2019, for a four-year total savings of \$527,270.
  - b. A total of 15 offenders have an average conviction time of 54 months on a DOC commitment. This group would serve a maximum of 24 months in a community placement such as prerelease. The department would have fiscal savings for these 15 offenders because this group would serve 30

fewer months on supervision. The cost savings would occur after the initial 24-month sentence is completed. The savings would equate to \$0 savings in FY 2016 and FY 2017, \$186,839 savings in FY 2018, and \$560,970 savings in FY 2019, for a four-year total savings of \$747,809.

- c. A total of 40 offenders have an average conviction time of 91 months in prison or on a DOC commitment. This group would serve a maximum of 24 months. The department would have fiscal savings for these 40 offenders because this group would serve 67 fewer months in prison. The cost savings would occur after the initial 24-month sentence is completed. The savings would equate to \$0 savings in FY 2016 and FY 2017, \$748,280 savings in FY 2018, and \$2,228,324 savings in FY 2019, for a four-year total savings of \$2,976,604.

The total estimated cost savings for these three groups would be \$0 in FY 2016 and FY 2017, \$1,069,740 in FY 2018, and \$3,181,943 in FY 2019 for a four year total of \$4,251,683.

2. There has been yearly average of 21 embezzlement convictions over the last five years under 45-5-316, MCA. These sentences are split into two groups:
  - a. A total of 19 of those convictions had an average conviction time of 55 months on probation and parole supervision. This group would serve a maximum of 36 months on probation and parole supervision. The department would have fiscal savings for these 19 offenders because this group would serve 19 fewer months on probation and parole. The cost savings would occur after the initial 36-month sentence is completed. The savings would equate to \$0 savings in FY 2016, FY 2017, and FY 2018 and \$19,210 savings in FY 2019, for a four-year total savings of \$19,210.
  - b. Two of those convictions had an average conviction time of 120 months on a DOC commitment. This group would serve a maximum of 36 months on supervision. The department would have fiscal savings for these two offenders because this group would serve 84 fewer months on supervision. The cost savings would occur after the initial 36-month sentence is completed. The savings would equate to \$0 savings in FY 2016, FY 2017, FY 2018 and \$26,655 savings in FY 2019, for a four-year total savings of \$26,655.

The total estimated cost savings for this group would be \$0 in FY 2016, \$0 in FY 2017, \$0 in FY 2018, and \$45,865 in FY 2019, for a four-year total of \$45,865.

3. The estimates above do not include offenders convicted of multiple felonies or persons currently under supervision. This group includes offenders with new offenses.
4. These costs also include an inflationary increase of 1.5% per year.
5. The total cost savings to the department would be \$0 in FY 2016, \$0 in FY 2017, \$1,069,740 in FY 2018, and \$3,227,808 in FY 2019, for a four-year total savings of \$4,297,548.

#### **Office of the State Public Defender (OPD)**

6. The Office of the State Public Defender (OPD) has the statutory obligation to represent individuals charged with a crime who cannot afford to hire counsel, represent individuals on direct appeal, and also to provide counsel if there is a conflict of interest.
7. The agency uses both state hired staff attorneys and contract attorneys to provide legal services. The savings noted above is created (1) when the agency avoids sending these cases to a contract attorney and (2) when staff attorneys that normally handle these type of cases have time freed up to do work that would otherwise be given to a contract attorney.
8. The number of new cases of these types received by OPD in FY 2014 is approximately 2,031.
9. These are stand-alone charges as the number of cases does not include those cases in which the offenses, which are the subject of this bill, are joined with another offense for which the person is entitled to a public defender.
10. No one attorney within the agency has a caseload exclusive to these offenses.
11. Depending on the charge, the agency estimates that it takes between 3 and 7 hours of attorney work time per case.
12. The agency estimates a reduction of approximately 11,518 hours. The hourly contract attorney rate is \$62/hour.

13. The savings in each office would not be sufficient enough to cut back on attorneys, but would be used to handle further caseload growth or transfer contract cases to FTE.
14. Savings to the agency for a full year are estimated at \$535,603 in FY 2017.
15. The bill is effective for offenses committed after July 1, 2015. Agency staff would need to work existing cases during FY 2016 and beyond. Therefore, savings shown are not fully reflected until FY 2016.
16. A 1.5 percent per year inflation factor is applied in the 2019 biennium.

**Department of Corrections**

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Operating Expenses	\$0	\$0	(\$1,069,740)	(\$3,227,808)
<b>TOTAL Expenditures</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$1,069,740)</b>	<b>(\$3,227,808)</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	(\$1,069,740)	(\$3,227,808)
<b>TOTAL Funding of Exp.</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$1,069,740)</b>	<b>(\$3,227,808)</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Office of State Public Defender**

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Operating Expenses	(\$66,950)	(\$535,603)	(\$543,637)	(\$551,792)
<b>TOTAL Expenditures</b>	<b>(\$66,950)</b>	<b>(\$535,603)</b>	<b>(\$543,637)</b>	<b>(\$551,792)</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	(\$66,950)	(\$535,603)	(\$543,637)	(\$551,792)
<b>TOTAL Funding of Exp.</b>	<b>(\$66,950)</b>	<b>(\$535,603)</b>	<b>(\$543,637)</b>	<b>(\$551,792)</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Net Impact to Fund Balance (Revenue minus Funding of Expenditures):**

General Fund (01)	\$66,950	\$535,603	\$1,613,377	\$3,779,600
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**Long-Term Impacts:**

**Department of Corrections (DOC)**

1. The state will see a long term savings of approximately 204 offenders on supervision or in a correctional facility/program after 24 – 36 months. Cost savings would only be achieved if the offenders remain off supervision and do not re-offend.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*